

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

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In re:

BKY No. 09-50779

ADV No. 10-\_\_\_\_\_

Dennis E. Hecker,

Debtor.

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Randall L. Seaver, Trustee,

Plaintiff,

**COMPLAINT**

vs.

William Prohofsky,

Defendant.

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Randall L. Seaver, Trustee of the Bankruptcy Estate of Dennis E. Hecker as and for his Complaint against William Prohofsky, states and alleges as follows:

1. Trustee is the duly appointed Chapter 7 Trustee of the bankruptcy estate of the debtor.
2. This bankruptcy case was commenced on June 4, 2009 by the filing of a voluntary Chapter 7 petition.
3. This adversary proceeding is a core proceeding within the meaning of 28 U.S.C. §157(b)(2).
4. This court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§157 and 1334. This case arises under 11 U.S.C. §§541, 542, 548 and 550.

5. William Prohofsky is a friend of the debtor, Dennis Hecker. At one time, Prohofsky was married to the mother of Tamitha Hecker. Tamitha Hecker is the former spouse of Dennis Hecker.

6. In the two weeks prior to filing his bankruptcy petition, Dennis Hecker and William Prohofsky conspired to and did create and effect a scheme to defraud the bankruptcy estate.

7. Hecker, in the two weeks prior to filing bankruptcy, with the consent, agreement and assistance of William Prohofsky, caused business entities, which Hecker controlled, to transfer into a Wells Fargo account of William Prohofsky, ending in numbers 2073 ("Prohofsky Account") in excess of \$80,000 ("Hecker Funds"). Those transfers and the source of funds for those transfers were as follows:

May 22, 2009	\$ 5,000.00	Walden Auto Leasing III, Inc., check #1031. Ex. 1
May 22, 2009	\$23,000.00	Walden Auto Leasing Holding Co., check #1124. Ex. 2.
May 28, 2009	\$20,500.00	Wire transfer from U.S. Bank.
June 4, 2009	<u>\$33,057.00</u>	Wire transfer from Walden Fleet Services account at Bank of the West. Copy of the wire transfer confirmation is attached hereto as Exhibit 3.
	<u>\$81,557.00</u>	

8. The Hecker Funds monies were deposited into the Prohofsky Account at the direction of Hecker with the intention of secreting and concealing from the trustee and others, monies being concealed for the sole use and benefit of Hecker.

9. After deposit of the Hecker Funds into the Prohofsky Account, Dennis Hecker provided specific and exclusive direction to William Prohofsky in the use of those funds. Those funds at the direction of Hecker, were used for payment of the bills of Dennis Hecker, and to

provide cash and gift cards to Hecker and Christi Rowan. Copies of some of the checks written from the Prohofsky Account at the direction of Hecker to pay Hecker's bills are attached hereto as Exhibit 4.

10. On June 11, 2009, \$10,000 in gift cards were purchased with Hecker Funds from the Prohofsky Account. Histories for two of those gift cards are attached hereto as Exhibits 5 and 6.

11. A copy of check number 8787 in the amount of \$5,000 payable to Christi Rowan from the Prohofsky Account is attached hereto as Exhibit 7. A copy of check number 8835 in the amount of \$9,800 payable to Christi Rowan from the Prohofsky Account is attached hereto as Exhibit 8.

12. Hecker provided instructions, at all relevant times, to Prohofsky, as to how the Hecker Monies contained in the Prohofsky Account were to be spent. At Hecker's direction, Prohofsky wrote over 50 checks from the Prohofsky Account for Hecker's benefit. Attached hereto as Exhibit 9 is a true and correct copy of a handwritten ledger sheet directing Prohofsky to make certain payments. These checks were written post-petition and were cashed post-petition.

13. Prohofsky was directed to pay by check all items on the document attached hereto as Exhibit 10. All of these checks were written pre-petition and were cashed both pre- and post-petition.

14. Prohofsky wrote checks on the Prohofsky Account as directed by Dennis Hecker. When he wrote those checks, Prohofsky wrote the check numbers next to the payment instructions.

15. On June 4, 2009, the day the date Hecker filed his Chapter 7 petition, the Prohofsky Account had a balance of in excess of \$53,000. Almost all of the money in the Prohofsky Account on the day of filing became property of the bankruptcy estate.

16. Neither Dennis Hecker nor William Prohofsky voluntarily disclosed the existence of the Prohofsky Account to the trustee. The trustee learned of the existence of the Prohofsky Account only as a result of serving a subpoena upon Prohofsky. Attached hereto as Exhibit 10 are copies of the cover page and pages 17-28, 45-52 and 65-72 of the February 10, 2010 Rule 2004 Examination of William Prohofsky.

17. In exchange for Prohofsky conspiring and agreeing with Hecker to participate in the scheme to defraud the bankruptcy estate, Hecker caused his companies to pay Prohofsky monies in addition to the \$81,557 described at paragraph 7 hereof. Those monies exceeded \$15,000, and were monies under the control and direction of Dennis Hecker.

## COUNT 1

### FRAUDULENT TRANSFERS

18. Plaintiff realleges and reaffirms paragraphs 1 through 17 above.

19. The transfers to Prohofsky in the amount of \$81,557 were fraudulent transfers of monies over which Dennis Hecker had complete and exclusive control. The transfers totaling

\$81,557 were made with actual intent to hinder, delay and defraud the trustee and creditors of Hecker.

## COUNT 2

### ESTATE PROPERTY

20. Plaintiff realleges and reaffirms paragraph 1 through 19 above.
21. Upon the filing of Hecker's Chapter 7 petition on June 4, 2009, all of the Hecker Funds in the Prohofsky Account became property of the bankruptcy estate. The account balance on the day of filing was \$53,422.95, and almost all of these funds were estate property.
22. Prohofsky was required, by the provisions of 11 U.S.C. §542(a) to turnover those funds to the trustee.
23. Prohofsky did not turn over those funds to the estate but rather, concealed them and continued to participate in the scheme whereby those funds were concealed from the trustee.
24. Prohofsky is liable to the estate for the sum of at least \$50,000.

## COUNT 3

25. Plaintiff realleges and reaffirms paragraph 1 through 24 above.
26. In addition to the \$81,557 received by Prohofsky, he also received in excess of \$15,000 as payment for his role in the scheme and conspiracy to hide assets from the trustee.
27. Because all monies received by Prohofsky pursuant to the scheme were monies under the exclusive control and direction of the debtor, they are assets of Hecker which were transferred to Prohofsky with the intent to hinder, delay or defraud creditors and the trustee.

28. All of those transfers, which total in excess of \$15,000, are avoidable pursuant to 11 U.S.C. §548 and recoverable by the trustee pursuant to 11 U.S.C. §550.

WHEREFORE, the trustee respectfully requests a judgment of the court as follows:

1. Entering judgment against the defendant in the amount of \$81,557 pursuant to Count 1 hereof.
2. Entering judgment against the defendant in an amount of not less than \$50,000 pursuant to Count 2 hereof.
3. Entering judgment against the defendant in an amount in excess of \$15,000 pursuant to Count 3 hereof.
4. Awarding the plaintiff his costs and disbursements herein.
5. Granting such other and further relief as the court deems just and equitable.

**LEONARD, O'BRIEN, SPENCER, GALE & SAYRE, LTD.**

Dated: February 24, 2010

By: /e/ Matthew R. Burton

Matthew R. Burton #210018  
100 South Fifth Street, Suite 2500  
Minneapolis, MN 55402  
(612) 332-1030

Attorneys for Randall L. Seaver, Trustee

Vendor No. PRO008 William Prohovsky

012

INVOICE DATE INVOICE NO.  
05/22/2009 1031  
MANAGEMENT FEE

Check Date 05/22/2009

Check No. 1031

ACCT NO SUB ACCT CONTROL ID

6502B 300

AMOUNT(S) PAID AMOUNT(S)

5,000.00  
5,000.00 5,000.00

Total 5,000.00

RECD BY 2  
2-10-10

CH RISTI

Chesie Larson

WALDEN AUTO LEASING III, INC.

500 FORD ROAD  
MINNEAPOLIS, MN 55426

U8BANK  
24-84/1290

CHECK NO. 1031

PAY

1031

FIVE THOUSAND AND 00/100 DOLLARS\*\*\*\*\*

TO THE  
ORDER OF

William Prohovsky  
10401 Cedar Lake Road  
Unit 303  
Minnetonka, MN 55365

05/22/2009

\$5,000.00

TWO SIGNATURES REQUIRED

EXHIBIT 1

100 1031 8481 7518 PROHFSKY15

WALDEN AUTO LEASING HOLDING CO. 500 FORD ROAD MINNEAPOLIS, MN 55426

011  
1124

Vendor No.	Check Date	Check No.		
PR0008 William Prohovsky	05/22/2009	1124		
INVOICE DATE	INVOICE NO.	ACCT NO SUB ACCT CONTROL ID	AMOUNT(S)	PAID AMOUNT(S)
05/22/2009	1124	60111 900	23,000.00	23,000.00
EXPENSE REIMBURSEMENT			23,000.00	23,000.00
		Total	23,000.00	

2-10-10 3

26487W

WALDEN AUTO LEASING HOLDING CO.

500 FORD ROAD  
MINNEAPOLIS, MN 55426

UBBANK  
24-841230

CHECK NO.

1124

AY

TWENTY THREE THOUSAND AND 00/100 DOLLARS\*\*\*\*\*

DATE

AMOUNT

05/22/2009

\$23,000.00

>THE  
RIDER

William Prohovsky  
10401 Cedar Lake Road  
Unit 303  
Minnetonka, MN 55305

TWO SIGNATURES REQUIRED

PROHOSKY 14

EXHIBIT 2

100112410

1284810

949210

## WT - Wire Detail Report

## Denny Heckers Automotive Group Inc

Customer Id: 400983  
 User Name: TOMSCH01  
 18-Jun-2009 01:02:18 PDT  
**Wire Detail Report**

<b>Msg Type</b>	FED	<b>Account</b>	BOW   397000571   Walden Fleet Services II Inc
<b>Amount</b>	33,057.00	<b>Value Date</b>	USD 04JUN2009
<b>Beneficiary Bank</b>	WELLS FARGO BANK, NA - F121000248 SAN FRANCISCO CA SAN FRANCISCO, CA US	<b>Beneficiary Info</b>	WILLIAM PROHOF SKY [REDACTED] 72073
<b>Status</b>	CONFIRMED	<b>Sequence #</b>	83
<b>Confirmation Message</b>	IMAD: [REDACTED] 175 Ref: [REDACTED] 265	<b>Wire Ref #</b>	[REDACTED] 265
<b>Control #</b>	[REDACTED] 9292		
<b>Entered on:</b>	03JUN2009		
<b>Created on:</b>	2009-06-03 at 14:27:30 by TOMSCH01		
<b>Modified on:</b>	2009-06-04 at 06:58:22 by TOMSCH01		
<b>Approved on:</b>	2009-06-04 at 07:01:06 by RICHAG01		
<b>Released on:</b>	2009-06-04 at 07:01:06 by RICHAG01		
<b>Placed In In-Process on:</b>	2009-06-04 at 07:01:10 by IISI		
<b>Confirmed on:</b>	2009-06-04 at 07:01:19 by IISI		
<b>Confirmed on:</b>	2009-06-04 at 07:01:21 by IISI		

End of Data

**EXHIBIT 3**

WILLIAM J PROHOF SKY  
 10401 CEDAR LAKE RD UNIT 303  
 MINNETONKA, MN 55305-3271

8791  
 17-1910 210  
 0070372073

Pay to the Order of Beck \$ 800<sup>00</sup>  
Eight Hundred Dollars

Wells Fargo Bank, N.A.  
 Minnesota  
 wellsfargo.com

For   W.J. Beck  
 10910000191 2073 08791

Security  
 Features  
 Details on  
 Back

ELECTRONICALLY PRESENTED - ?

PAY TO THE ORDER OF  
 WELLS FARGO BANK MINNESOTA, N.A.  
 MINNEAPOLIS, MN 55478

FOR DEPOSIT ONLY  
 WELLS FARGO BANK  
 BECK SCHOOL G.O.  
 ACCOUNT # 568

R/T Number 009100001  
 Sequence Number 000000284276833  
 Account Number   2073

Processing Date 20090601  
 Amount 0000000000  
 Serial Number 00000000008791

WILLIAM J PROHOF SKY  
10401 CEDAR LAKE RD UNIT 303  
MINNETONKA, MN 55305-3271

0016951758

S- 24-09 Date

8800

17-1810 210  
0070372073

Pay to the Order of Inter Bank

\$ 1116<sup>46</sup>

One Thousand One Hundred Sixteen Dollars



Wells Fargo Bank N.A.  
Minneapolis  
www.wellsfargo.com

For \_\_\_\_\_

00910000196 [REDACTED] 2073# 08800

CENLAR

Credit the account of the within named payee  
without prejudice PEG-REGULUS RP

R/T Number 009100001  
Sequence Number 000008815556965  
Account Number [REDACTED] 2073

Processing Date 20090603  
Amount 0000111646  
Serial Number 000000000008800

WILLIAM J PROHOFSKY  
10401 CEDAR LAKE RD UNIT 303  
MINNETONKA, MN 55305-3271

8801

07-1910 210  
0070372073

5-29-09 Date

Pay to the Order of N. TRO Green \$ 1774 33  
Six Thousand Seven Hundred Seventy Four 33/100 Dollars



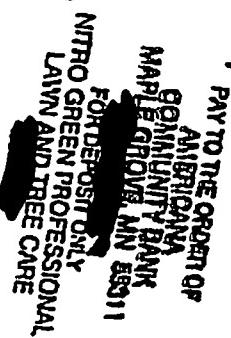
Wells Fargo Bank, N.A.  
Minnesota  
wellsfargo.com

For \_\_\_\_\_

109100001910 207311 08801

D.V.

Americana Community Bank X 08801  
8 06/01/2009 2

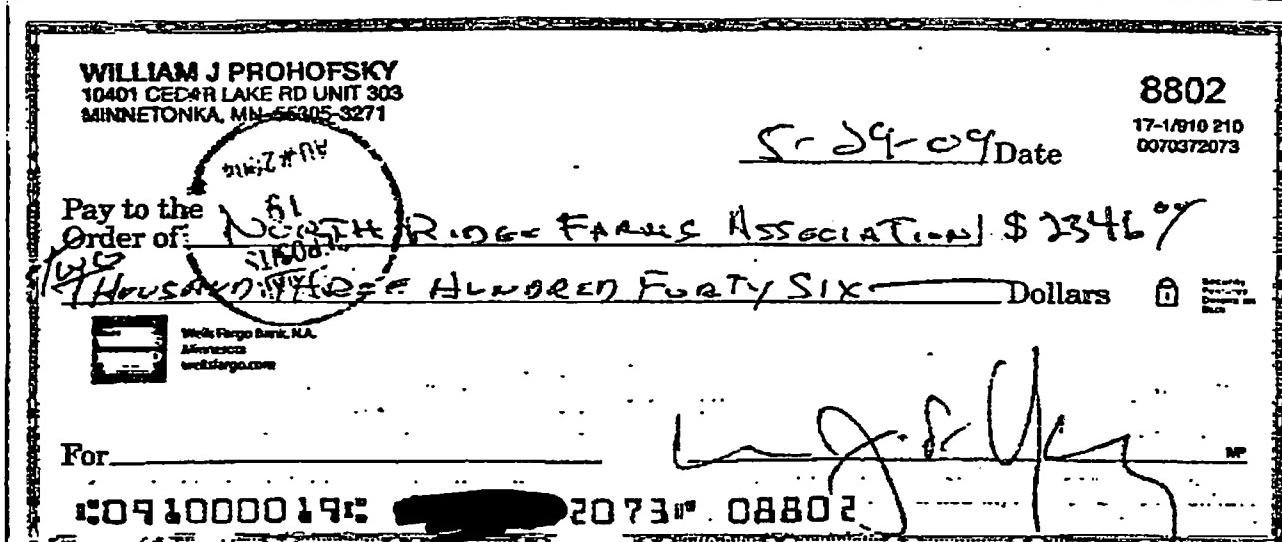


R/T Number  
Sequence Number  
Account Number

009100001  
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2073

Processing Date  
Amount  
Serial Number

200906012  
0000177433  
00000000008801



R/T Number 009100001  
Sequence Number 000004140664822  
Account Number 073

Processing Date 20090610  
Amount 0000234600  
Serial Number 000000000008802

WILLIAM J PROHOFSKY  
10401 CEDAR LAKE RD UNIT 303  
MINNETONKA, MN 55305-3271

8809

57-1910210  
0070372073

5-26-09 Date

Pay to the Order of Prudential

\$ 1352 ~~xx~~

~~One Thousand Three Hundred Fifty Two~~ <sup>xx</sup> Dollars ~~00~~



Wells Fargo Bank, N.A.  
Minnesota  
wellsfargo.com

For \_\_\_\_\_

*L. J. L.*

009100001910 [REDACTED] 2073 08809 0000135200

41 [REDACTED]  
MAN [REDACTED] CREDIT ACCT DE  
BUNELL CREDIT ACCT DE  
SUSSEX ST HAMPTON NEW YORK  
END GUAR [REDACTED]

R/T Number 009100001  
Sequence Number 000008845286959  
Account Number [REDACTED] 2073

Processing Date 20090610  
Amount 0000135200  
Serial Number 0000000000008809

WILLIAM J PROHOF SKY 456 A  
10401 CEDAR LAKE RD UNIT 303  
MINNETONKA MN 55305-3271

8813

37-1910 210  
3070372073

Pay to the  
Order of Roaring Fox

\$ 36<sup>95</sup>

Dollars



Wells Fargo Bank, N.A.  
Minnesota  
[wellsfargo.com](http://wellsfargo.com)

For \_\_\_\_\_

~~40-08813~~

277

109100001912

PAY TO THE ORDER OF VECTRA BANK  
COLORADO DENVER, CO FOR  
DEPOSIT ONLY ROARING FORK LODGE  
SNOWMASS [REDACTED] 1

R/T Number 009100001  
Sequence Number 000008845151516  
Account Number [REDACTED] 72073

WILLIAM J PROHOF SKY  
10401 CEDAR LAKE RD UNIT 303  
MINNETONKA, MN 55305-3271

456  
8814

77-1910 210  
0070372073

5-24-09 Date

Pay to the  
Order of Roaring Fork

\$ 203

Two Hundred Three

Dollars



Wells Fargo Bank N.A.  
Minnesota  
wellsfargo.com

For \_\_\_\_\_

J. Prohovsky

00910000191 2073 08814

PAY TO THE ORDER OF VECTRA BANK  
COLORADO DENVER, CO FOR  
DEPOSIT ONLY ROARING FORK LODGE  
SNOWMASS

R/T Number 009100001  
Sequence Number 000008845151515  
Account Number 2073

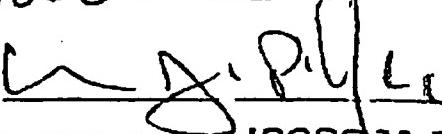
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WILLIAM J PROHOF SKY  
10401 CEDAR LAKE RD UNIT 303  
MINNETONKA, MN 55305-3271

LOOKUP 8816

5-24-624 Date - 17-1-910 210  
0070372073

Pay to the U.S. BANK \$ 3421.64  
Order of TRUST AND FURNITURE REPOSITORY INC. Dollars -0  
 Wells Fargo Bank, N.A.  
www.wellsfargo.com  
4037 6919 6800 0062

For 10910000191 2073 08816 00003423848  


091000191  
S/T 00 10 X PT 3  
ACCT ????????????

R/T Number 009100001  
Sequence Number 000008822461461  
Account Number 0073

Processing Date 20090605  
Amount 0000342154  
Serial Number 000010000008816

WILLIAM J PROHOF SKY  
10401 CEDAR LAKE RD UNIT 303  
MINNETONKA, MN 55305-3271

952-546-1633

8852

17-1/810 210  
6070372073

6-30-09

Date

Pay to the  
Order of Loyo Security, Inc.

\$1335.06

ONE THOUSAND THREE HUNDRED THIRTY FIVE <sup>c6</sup> Dollars



Wells Fargo Bank, N.A.  
Minneapolis  
wellsfargo.com

INVOICES 8443 & 8016

For 122017 & 122337

10910000191

2073 08852

*WJSP*

1528881848137 8881 071389

>891

PAY TO THE ORDER OF  
PRIVATE BANK MINNESOTA  
MINNEAPOLIS, MINNESOTA 55402  
FOR DEPOSIT ONLY  
LOYO SECURITY INC.

R/T Number 009100001  
Sequence Number 000008883469856  
Account Number XXXXXXXXXX 2073

Processing Date 20090713  
Amount 0000133506  
Serial Number 0000000000008852



WILLIAM J PROHOFSKY  
 10401 CEDAR LAKE RD UNIT 303  
 MINNETONKA, MN 55305-3271

8864  
27-1910 210  
0070372073

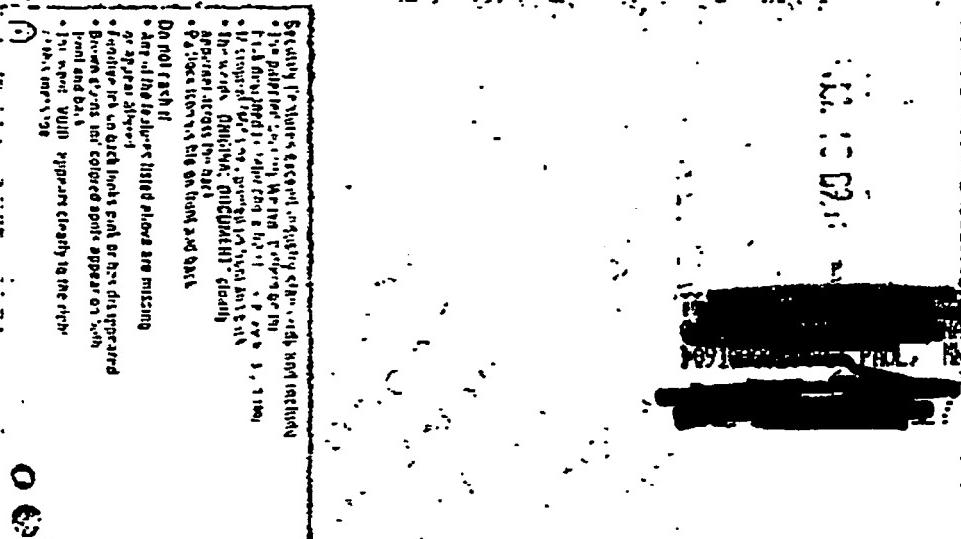
6-30-09  
 Date

Pay to the Order of Premier Aquarium \$ 500 00  
Five Hundred — — — — Dollars 00

  
 Wells Fargo Bank, N.A.  
 Minnesota  
 55305-3271

For Dennis Hocken W.J. Prohovsky  
 10910000198 [REDACTED] 2073# 08864 00000050000

ENDORSE HERE



R/T Number	009100001	Processing Date	20090710
Sequence Number	000008881956419	Amount	00000050000
Account Number	72073	Serial Number	000010300008864

**WILLIAM J PROHOFSKY  
10401 CEDAR LAKE RD UNIT 303  
MINNETONKA, MN 55305-3271**

8866

17-1810 210  
0070372073

Date \_\_\_\_\_

Pay to the  
Order of Wright Hospital \$ 144 10

\$ 144.00

One thousand four hundred forty one Dollars 



Wells Fargo Bank, N.A.  
Minnesota  
[wellsfargomn.com](http://wellsfargomn.com)

For 1493 HUNTER DR.

Eng. G. A. Clark

10910000191 2073 08866

2023-08866

DEPOSIT ONLY [REDACTED] WH ELEC & SECUR

THE ELKRIVER 3

R/T Number 009100001  
Sequence Number 000008880467346  
Account Number [REDACTED] 2073

**Processing Date** 20090709  
**Amount** 0000144100  
**Serial Number** 0001330000008866

WILLIAM J PROHOF SKY  
10401 CEDAR LAKE RD UNIT 303  
MINNETONKA, MN 55305-3271

HECKE

8867

17-1/6/10 210  
0070372073

6-30-09

Date

Pay to the  
Order of THE TIMBER CLUB

\$ 671 50

Six hundred二十 Seventy five

Dollars



Wells Fargo Bank, N.A.  
Minnesota  
wellsfargo.com

For Acuity-Tan, Tim Heckere

C. J. D. H.

00910000191 2073 08867

PAY TO THE ORDER OF  
ALPINE BANK  
FOR DEPOSIT ONLY  
TIMBERS CLUB HOME OWNERS ASSOC.

R/T Number 009100001  
Sequence Number 000008884923473  
Account Number 2073

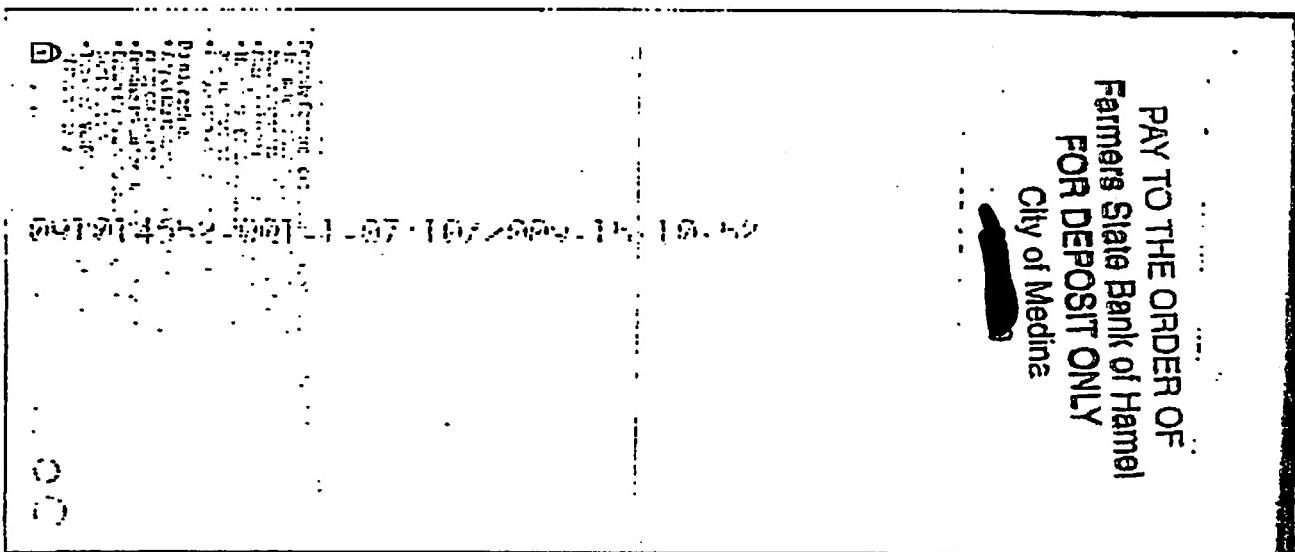
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Serial Number 000000000008867

WILLIAM J PROHOF SKY  
 10401 CEDAR LAKE RD UNIT 303  
 MINNETONKA, MN 55305-3271

Pay to the Order of City of Medina  
 Sixty five \$ 75.00  
 Dollars

Wells Fargo Bank, N.A.  
 Minnesota  
 wellsfbogocom  
 Insurance 3184  
 For DENNISE HICKMAN  
 009100001910 73 08871

John C. Meier



R/T Number	009100001	Processing Date	20090710
Sequence Number	000000284893252	Amount	0000007500
Account Number	<u>2073</u>	Serial Number	000000000008871

System Date	Post Date	Event		Amount	R
Merchant			Reference		
08/13/2009	08/15/2009	Purchase - Service Stations (with or without Ancillary Services)		\$2.94	Fair
HOLIDAY STNSTORE 3551	ST. LOUIS PAR	MN US	24717059226692263414684		
08/12/2009	08/14/2009	Purchase - Service Stations (with or without Ancillary Services)		\$0.43	Fair
HOLIDAY STNSTORE 0039	MINNETONKA	MN US	2471705922569225248592		
08/10/2009	08/12/2009	Purchase - Eating Places, Restaurants		\$2.94	Fair
ISLES MARKET	MINNEAPOLIS	MN US	240133998223008572564147		
08/10/2009	08/11/2009	Purchase - Quick Payment Service, Fast Food Restaurants		\$5.45	Fair
WHITE CASTLE 080028Q84	HOPKINS	MN US	24761975222074624011277		
07/30/2009	08/01/2009	Purchase - Quick Payment Service, Fast Food Restaurants		\$4.19	Fair
STARBUCKS USA 00210369	HONOLULU	HI US	24164078212355461022343		
07/28/2009	07/30/2009	Purchase - Eating Places, Restaurants		\$1.18	Fair
ISLES MARKET	MINNEAPOLIS	MN US	24013399210009143384145		
07/26/2009	07/28/2009	Purchase - Men's and Women's Clothing Stores		\$53.28	Fair
UNDER ARMOUR	ASPEN	CO US	24071059208330142747089		
07/26/2009	07/28/2009	Purchase - Gift, Card, Novelty, and Souvenir Shops		\$229.11	Fair
RADIO BOARD SHOP	ASPEN	CO US	24018519208208288778103		
07/22/2009	07/23/2009	Purchase - Women's Ready to Wear Stores		\$190.00	Fair
A.P.C. SERVICE	2128960069	NY US	24435859203286198800059		
06/11/2009	06/11/2009	Value Load - n/a		\$500.00	0
WELLS FARGO A2A ONLINE			CC0082916622D		

EXHIBIT

5

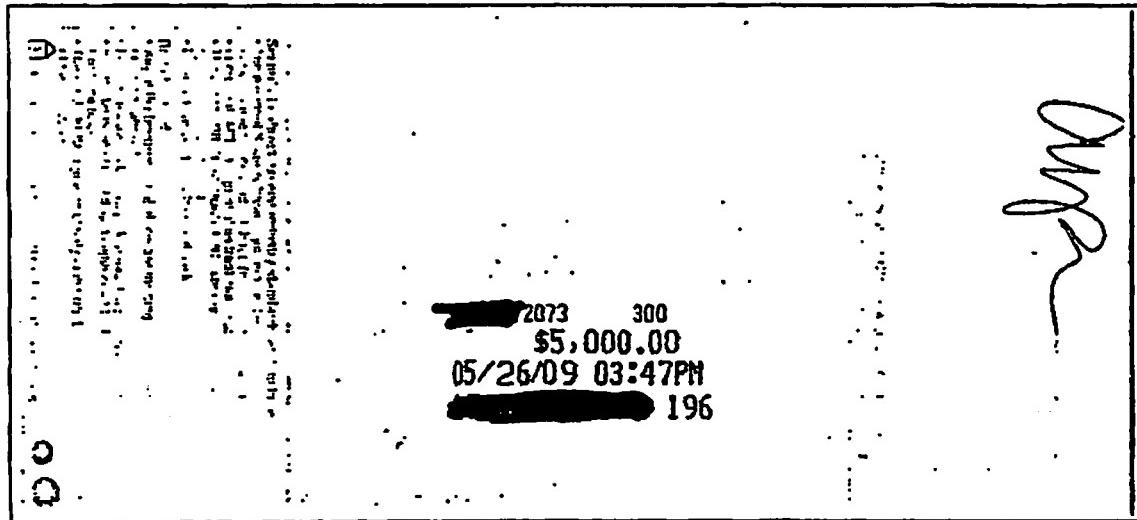
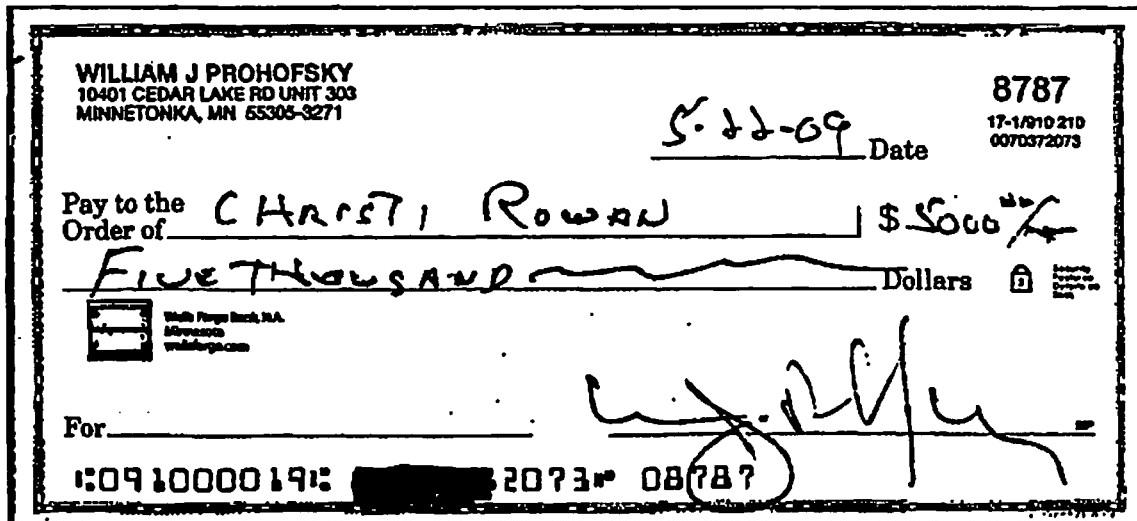
System Date	Post Date	Event	Merchant	Amount	R Reference
Purse					
07/30/2009	08/01/2009	Purchase - Women's Accessory and Specialty Stores		\$500.00	Fals
Wells Fargo Store Np	06/11/2009	LOUIS VUITTON WAIKIKI	HONOLULU		
06/11/2009	06/11/2009	Value Load - n/a			00034
Wells Fargo Store Np		WELLS FARGO A2A ONLINE		\$500.00	0
06/11/2009	06/11/2009	Activate account			CC003038408C
		Undefined (catch all)			Fals
06/11/2009	06/11/2009	Create a new purse			
		Undefined (catch all)			CC003038408C
08/25/2008	08/25/2008	Embossing Complete			Fals
		Undefined (catch all)			CC000ED77350
08/25/2008	08/25/2008	Embossing Complete			Fals
		Undefined (catch all)			
08/22/2008	08/22/2008	Create a new account			CC003092621D
		Undefined (catch all)			Fals
08/22/2008	08/22/2008	Embossing Pending			CC00C61235D1
		Undefined (catch all)			Fals
					CC00932AA3326

Date: February 3, 2010

Wells Fargo PhotoCopy  
Request

Page 1 of 1

Reference: 1000035707616:1000035707616:1000035706615



R/T Number 09100001  
Sequence Number [REDACTED] 7821  
Account Number [REDACTED] 2073

Processing Date 20090526  
Amount 5000.00  
Check Number 8787

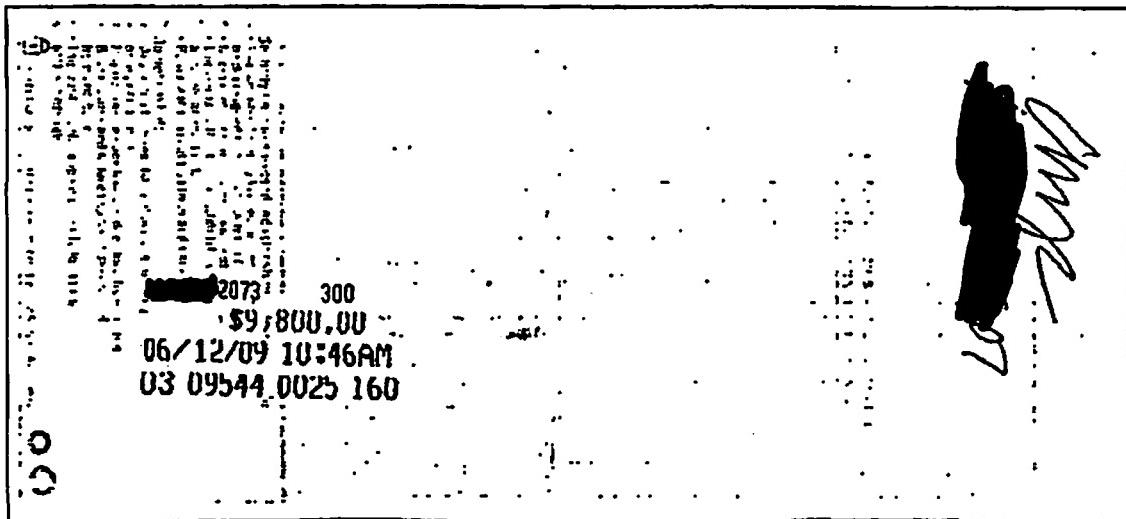
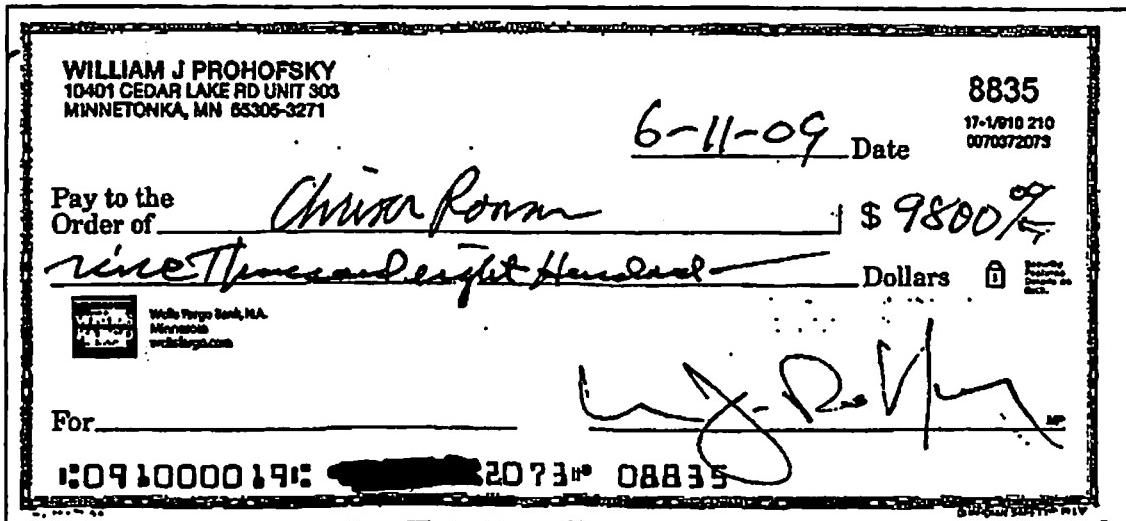
EXHIBIT 7

Date: February 3, 2010

Wells Fargo PhotoCopy  
Request

Page 1 of 1

Reference: 1000035709162:1000035709162:1000035708161



R/T Number 09100001  
Sequence Number 0062  
Account Number 2073

Processing Date 20090612  
Amount 9800.00  
Check Number 8835

EXHIBIT 8

2-10-10  
24

TOPIC:

DATE:

FILE UNDER:

PAGE:

- ① Laid Seaway Hunter Cross Lake  
623 40 1335 ✓ 711 66
- ② XL Cel Energy 11674 Echo  
Scout
- ③ XL Cel Energy 11700 Cross  
11671 6855 ✓
- ④ XL Cel 352 95 ✓
- ⑤ Cross Lake Comittee 7431 4883 ✓
- ⑥ Bauhaus 1071
- ⑦ American National Ball 702 57 6856 ✓
- ⑧ GTO Inc. 1300 40 2057 ✓
- ⑨ 11
- ⑩ Moss Bennett 1091 00 6856 ✓
- ⑪ Rassy Sunoco 1093 00 6856 ✓
- ⑫ Certy Port Energy 1172 00 6856 ✓
- ⑬ Certy Port 1172 00 6856 ✓
- ⑭ Timber Deck 1071
- ⑮ Certy Port 1173
- ⑯ J 15249 2108
- ⑰ 24 Mead 1152 25
- ⑱ 25 Hutchins 452
- ⑲ 26 Mead 1152 25
- ⑳ 27 Pay DM 1073
- ⑳ 28 Mead 1152 25

1 UNITED STATES BANKRUPTCY COURT  
 2 DISTRICT OF MINNESOTA  
 3  
 4 -----  
 5 In re:  
 6 Dennis E. Hecker, Bky No. 09-50779  
 7 Debtor.  
 8 -----  
 9 2004 Examination of WILLIAM PROHOF SKY,  
 10 taken in the above-entitled matter, pursuant to  
 11 Notice, before Julie A. Rixe, court reporter and  
 12 notary public, at 12400 Portland Avenue South,  
 13 Suite 132, in the City of Burnsville, County of  
 14 Dakota, State of Minnesota, on the 10th day of  
 15 February, 2010, commencing at approximately 9:00 a.m.  
 16  
 17 \* \* \*  
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 19  
 20  
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 23  
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1 APPEARANCES:  
 2 RANDALL L. SEAVER, Trustee, and MATTHEW  
 3 D. SWANSON, Attorney at Law, Fuller, Seaver &  
 4 Ramette, P.A., 12400 Portland Avenue South,  
 5 Suite 132, Burnsville, Minnesota 55337, appeared  
 6 for and on behalf of the Trustee.  
 7 JOSEPH M. DICKER, P.A., Attorney at  
 8 Law, 1406 West Lake Street, Suite 209,  
 9 Minneapolis, Minnesota 55408, appeared for and  
 10 on behalf of the Deponent.

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 13  
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 21  
 22 WHEREUPON, the following proceedings  
 23 were duly had and entered of record, to wit:  
 24  
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1 A I'm sure there is, but I just can't think of it		1 was I think I understood.
2 now.		2 Sue Miller used to pay all his bills.
3 Q Okay. Did there come a time when Mr. Hecker		3 She used to pay everything, I think. And there
4 asked you to hold some money for him?		4 was some problems I think with Sue and Tamitha
5 A Yes.		5 and everything else, and Tamitha was giving Denny
6 Q And tell me how that came about.		6 a lot of heat about certain bills. And I think
7 A We were over at his house, Judith and I,		7 Tamitha paid some he gave her and he asked me if
8 Tamitha's mother, and Tamitha and Denny were		8 I would pay the rest. And I said sure, why not.
9 arguing. And I think Denny accused her of		9 People always paid his bills. I don't think he
10 stealing -- not stealing, taking a certain amount		10 ever paid his own bills.
11 of money. I don't really recall what it is. If		11 Q So the idea was that he would have money
12 you want me to guess, I can guess, but it would		12 transferred into your personal account, and then
13 be a guess. I think they had come back from Las		13 you would pay his bills using that money?
14 Vegas, where he did rather well. And he said to		14 A I think there was also written checks given to
15 me, would you hold this for me and don't tell		15 me --
16 anybody. It was an envelope. I don't know what		16 Q Right.
17 was in it. I didn't look.		17 A -- yes.
18 Q When was this?		18 Q Checks and wire transfers --
19 A I'm guessing summer of '08. And two days later		19 A Correct.
20 he said, would you bring it back. Judith and		20 Q -- both? Okay. Let me rephrase it. So the idea
21 Tamitha were there. I gave it to him in front of		21 was that he would have money in the form of
22 them, so they knew about it.		22 checks and wire transfers transferred into your
23 Q In 2009 did he ask you to hold any money for him?		23 account at Wells Fargo, and then he would direct
24 A Not that I can recall.		24 you how to use that money to pay his bills?
25 Q Were there any discussions about putting money		25 A I think your word direct is -- I don't know how
	Page 18	Page 20
1 into an account held in your name to be used to		1 to -- I gave you -- You have copies of the slips
2 pay his bills?		2 I received from him showing who to make them out
3 A Would you repeat that?		3 to and the amounts, if that's what you mean.
4 Q Yes. In 2009 did you have a discussion with		4 Q Okay. So I'll rephrase it again and take that
5 Denny Hecker about putting money into an account		5 word direct out of there. So the idea was that
6 held in your name to be used by you to pay		6 he would have money transferred by check and wire
7 Mr. Hecker's bills?		7 transfer into your account at Wells Fargo, and
8 A Are you referring to the checks that you have		8 then you would use that money to pay his bills?
9 copies of?		9 A You know, what you're saying sounds right, but
10 Q I'm asking you if there was any discussion about		10 your words are kind of not real clear.
11 such a thing?		11 Q But that sounds correct to you?
12 A I don't think there was ever a discussion about,		12 A Off the top of my head, I'd have to give it a lot
13 put money in your account to pay my bills. I		13 more thought.
14 think the discussion was, would you pay the		14 Q Well, what was your understanding of what you
15 bills.		15 were supposed to do?
16 Q Okay. So tell me how that came up, how it came		16 A My understanding was I was going to get money
17 up that the checks that went into your account		17 that would be enough to cover the bills that he
18 did go into your account.		18 wanted me to pay.
19 A Well, number one, it was transfers too. It		19 Q And then he would tell you what bills to pay?
20 wasn't just checks.		20 A He didn't tell me. He gave me the written papers
21 Q There was wire transfers also?		21 that I gave you.
22 A Correct, if that's what you're referring to.		22 Q Okay. Let me show you what's been marked as
23 Denny asked me if I would pay some bills. And,		23 Exhibit 2. I'll tell you I marked your tax
24 again, I'm going to give you some opinions. I		24 return as Exhibit 1, but I'm not going to use
25 don't know how much was discussion and how much		25 that.

	Page 21	Page 23
1        Exhibit 2 is a copy of Check		1 A You know, I was given a list of checks to make
2        Number 1031 from Walden Auto Leasing III, Inc.		2 out and I -- I don't know the answer to your
3        And that's a check payable to William Prohofsky		3 question.
4        for \$5,000, correct?		4 Q You mean it's a reimbursement for the \$5,000
5 A Yes.		5 payment to Christi?
6 Q Is this one of the checks that he gave you to pay		6 A No. I mean it's a reimbursement to my check I
7 bills with?		7 made out to her.
8 A Yes.		8 Q Right. So when you say expense reimbursement,
9 Q Okay. Let me put in front of you at the same		9 you're just talking about a reimbursement for the
10 time Exhibit 12. And Exhibit 12 is a PMA Wells		10 \$5,000 check that you made to Christi?
11 Fargo statement. It's dated May 31, 2009. And		11 A The firm gave it back to me, yes.
12 we had control numbers put on the documents that		12 MR. DICKER: Can we go off the record
13 you gave us.		13 for a second?
14 A What does control numbers mean?		14 MR. SEAVER: Sure.
15 Q Down at the bottom it says Prohofsky 106, so it's		15 (Discussion held off the record.)
16 Prohofsky 106 through Prohofsky 113. And I'll		16 MR. SEAVER: Let's go back on the
17 put that in front of you also.		17 record.
18 All right. Going back to this Exhibit		18 BY MR. SEAVER:
19 Number 2, in the middle of that there's something		19 Q We just had a discussion, and I think we're all
20 that says Christi, and then it says Christi Rowan		20 on the same page on what you're testifying to
21 in handwriting. Whose writing is that?		21 here.
22 A The Christi on top is mine. The other one I		22 A I hope I am.
23 believe is Denny's.		23 Q Let me show you Exhibit Number 20, and maybe this
24 Q Why is that writing there?		24 will make it easier. That has Control Number
25 A Because I made the check out to Christi. He told		25 Prohofsky 415. This is a copy of a check stub,
	Page 22	Page 24
1 me who to make it out to.		1 Number 8787 to Christi Rowan for \$5,000, correct?
2 Q So you received this \$5,000 check, and then you		2 A Correct.
3 made a check out of your account payable to		3 Q So the \$5,000 represented by Exhibit 2 is a
4 Christi Rowan?		4 reimbursement for that \$5,000 check of yours to
5 A Correct.		5 Christi Rowan?
6 Q Okay. Is that what Denny told you to do?		6 A That's the way I look at it.
7 A Correct.		7 Q Okay. And did Mr. Hecker personally hand you
8 Q Now, this Exhibit 2, right up at the top it says		8 this check that is Exhibit Number 2?
9 -- If you look over right under the date --		9 A I don't remember.
10 A Here.		10 Q Okay. Where were you when you got it, the check?
11 Q -- it says management fee. But this one wasn't a		11 A The office.
12 management fee, correct?		12 Q The office is where?
13 A No. It was a reimbursement.		13 A 500 Ford Road.
14 Q A reimbursement?		14 Q All right. Let me show you now -- I'm going to
15 A Well, expense reimbursement.		15 open Exhibit Number 12, open that to the page
16 Q Were you getting reimbursed for expenses?		16 that has Prohofsky Number 110 down on the
17 A Some I did and most of them I didn't. The ones I		17 bottom. We see a check going out there,
18 got reimbursed for were the ones that you have		18 Number 8787 for \$5,000. And that's the check to
19 the slips for.		19 Christi Rowan, right?
20 Q Is it your testimony that this \$5,000 check		20 A The numbers are the same.
21 payable to you is an expense reimbursement check?		21 Q That is the check to Christi Rowan, right?
22 A You know, I believe so. I'm not sure exactly how		22 A As far as I can tell.
23 to correct it, but I would think it was a		23 Q Okay. I'm showing you now what's been marked as
24 reimbursement.		24 Deposition Exhibit Number 3. Deposition Exhibit
25 Q A reimbursement for what expenses, sir?		25 Number 3 is a document with Control Number

	Page 25	Page 27
1	Prohofsky 14. It is from Walden Auto Leasing	1 (indicating) dated. Yeah, it appears that both
2	Holding Co. to William Prohofsky for \$23,000,	2 dates coincide.
3	correct?	3 Q Okay. Now I'm showing you Exhibit Number 5. And
4 A Yes.		4 you can't see the number there well. There's
5 Q And ride in the middle of that --		5 some control number at the bottom.
6 A Excuse me. I've got some mints that will help		6 A This is one of the slips I gave you?
7 you if you want.		7 Q It is, yes. It's a wire detail report, and it
8 Q No thank you.		8 relates to a wire transfer into your Wells Fargo
9 A Are you sure?		9 account, correct?
10 Q Yes.		10 A Yes.
11 A They're strong.		11 Q And let me just put Exhibit 13 in front of you,
12 Q Right in the middle of that there's handwriting.		12 which is Prohofsky 97 through Prohofsky 105. And
13 Are those the initials CR?		13 I'll turn it to the page of that exhibit that is
14 A I don't believe so.		14 Prohofsky 100. And right up at the very top,
15 Q Do you know what they are?		15 June 4, that's the wire transfer that we're
16 A No imagine -- I have no idea.		16 looking at here coming into your account,
17 MR. DICKER: I'm sorry. You're		17 correct?
18 referring to a scrawl in the exact center --		18 A It sure does look like it.
19 almost the exact center of the page?		19 Q Did you discuss this wire transfer with
20 MR. SEAVER: I am.		20 Mr. Hecker?
21 MR. DICKER: Okay. Thank you.		21 A I don't remember.
22 BY MR. SEAVER:		22 Q Okay. Why was this money being wired into your
23 Q And did you receive this \$23,000 check from		23 account?
24 Mr. Hecker?		24 A To pay those bills that you were talking about.
25 A These -- The best I can recall, these were both		25 Q And is it accurate to say that you don't consider
	Page 26	Page 28
1	given to me by this Tom Schwartz.	1 this \$33,057 as income?
2 Q	Okay. And it appears that he's one of the	2 A No.
3 signators on both of those checks?		3 Q That's true, isn't it?
4 A	I've got to look at the other one. Yes.	4 A Yes.
5 Q	All right. You don't consider either Exhibit 2	5 Q Okay.
6 or Exhibit 3 as income to Bill Prohofsky, do you?		6 A Could I ask my attorney something?
7 A	No.	7 (Discussion held off the record.)
8 Q	This check, this Exhibit 3 right up at the top	8 BY MR. SEAVER:
9 says Expense Reimbursement with a date up there.		9 Q All right. I'm showing you now what's been
10 In your opinion, would that be, as you testified		10 marked as Prohofsky 7. Prohofsky 7 is a copy of
11 on the other one, reimbursement for expenses of		11 the front and back of a check that you provided.
12 Denny's you're paying out?		12 It has Prohofsky 4 down on the bottom. It's a
13 A	For those lists I gave you, part of it, yes.	13 check drawn on your Wells Fargo account, correct?
14 Q	Okay. I'm showing you now what's been marked as	14 A Yes.
15 Exhibit Number 4. And Exhibit Number 4 has		15 Q And did you get cash for this check on -- It says
16 Prohofsky 13 as a control number down at the		16 June 4 of 2009. Did you get cash for that check
17 bottom, which indicates it came from you. Are		17 on that day?
18 these deposit slips for the two checks which are		18 A Yes.
19 Exhibits 2 and 3?		19 Q All right. Why did you go get cash that day?
20 A	Yes.	20 A I gave it to Denny Hecker.
21 Q	All right. Did you take those two checks to	21 Q Did he ask you to go do that?
22 Wells Fargo bank to deposit the same day you		22 A Could we go off the record for a minute? I've
23 received them?		23 got to ask him something.
24 A	I don't know. I have to look at the dates. What	24 Q I guess you can ask him something.
25 are the checks dated? What were these		25 A Why are you frowning on that?

	Page 45	Page 47
1	bills less the money you had already spent to pay 2 bills?	1 Q Okay. Did you ever buy any gift cards at TCF?
3 A	I believe so.	2 A No. The only check cards I believe I ever bought 3 in my life were the ones you see, that I 4 remember.
4 Q	Okay. So then we see a deduction for CenterPoint 5 Energy because you paid a bill to CenterPoint 6 Energy for \$498.52, correct?	5 Q All right. Let's go to -- I'm putting in front 6 of you Exhibit Number 24. And Exhibit Number 24 7 is two pages. It says Prohofsky 11 and 8 Prohofsky 12 at the bottom. What are these 9 pages, generally?
7 A	Correct.	10 A These are bills telling me who to make checks out 11 to, and the number after it is the check numbers.
8 Q	Then we see a deduction for \$10,000 to DH, 9 correct?	12 Q All right. So starting over in the left column, 13 the first one says Lloyd Security --
10 A	Correct.	14 A Yes.
11 Q	And that's the 10,000 in gift cards, correct?	15 Q -- \$623.40. That's not your writing, is it?
12 A	Yes.	16 A No.
13 Q	And then we go down after that and we see 14 something that says \$9,800. What does it say 15 after that?	17 Q Okay. Whose writing is it?
16 A	I gave a check to Denny made out for that amount 17 and there was no name put on it. He says, make 18 out a check for it and leave the name blank. 19 Later on, when I got the check back, I saw that 20 it was made out to Christi Rowan and that's when 21 I wrote it on my check stub, Christi Rowan.	18 A The reason these papers are a little illegible, I 19 didn't have copies. I had to get copies back 20 from Sue Miller. That's why they're cut off. 21 When you asked for originals, I don't have them. 22 This is how I got them.
22 Q	Okay. So he told you to write out a check for 23 \$9,800, but he didn't tell you who?	23 I don't know about these (indicating).
24 A	That's correct.	24 This one (indicating) I don't think so. This 25 (indicating) one I think so.
25 Q	Did he just tell you to leave it blank?	
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1 A	Yes.	1 Q We're on Exhibit 24. You think you got that from 2 Sue Miller?
2 Q	Okay. Here, let me show you Exhibit Number 27. 3 And this has Control Number 463 on it. That's a 4 photocopy of a stub that you produced. And that 5 relates to this \$9,800 check, correct?	3 A I know I did, because I told her I didn't have a 4 copy, would you give me a copy.
6 A	Definitely. In fact, it says on there, Gave to 7 Denny, no name, he fill in.	5 Q And did that happen after we served the subpoena 6 on you?
8 Q	That's what that says?	7 A No. That happened right away, because I wanted 8 to have the slip so I could check off my checks 9 when they went through the bank. So this was a 10 day or two later.
9 A	That's correct.	11 Q Back in May or June of 2009?
10 Q	Okay.	12 A Correct, correct.
11 A	Mr. Seaver, you and I are going to have to go 12 someplace and learn how to read my writing. I 13 think we both have to take lessons. I'm not 14 doing too well either.	13 Q Okay. All right. So back to this, the writing 14 in the left column, do you know whose writing 15 that is, the handwriting?
15 Q	All right. Continuing on on Exhibit 19, so after 16 the \$9,800 deduct, according to this running 17 balance here, you're down at 12,758 and some 18 change, correct?	16 A I can guess.
19 A	Yes.	17 Q Just give me your best guess.
20 Q	And then you deduct for 6/30/09, \$14,180.01, 21 correct?	18 A Denny's.
22 A	That's what it looks like.	19 Q And this looks like the kind of paper that he 20 usually keeps notes on, doesn't it?
23 Q	And those would all relate to checks that you had 24 written?	21 A You know, I've seen all kinds of papers come from 22 him.
25 A	Correct.	23 Q And then if we look at this piece of paper, 24 there's a column that says Hunter and another 25 that says Crosslake, correct?

	Page 49		Page 51
1 A Yes.		1 you had been directed to pay, you would write the	
2 Q And that's not your writing either?		2 check number beside them?	
3 A No.		3 A That was -- Yes.	
4 Q And that would appear to you to be Denny's		4 Q And the entries here on Exhibit 24, your entries	
5 writing?		5 with the check numbers, over what course of time	
6 A Yes. But if you look in the middle, where it		6 did you write those checks and put the numbers in	
7 says \$1,335.06, I believe, I combined those two		7 here?	
8 because they were going to the same place and		8 A One right after another.	
9 wrote out one check for the two of them.		9 Q So it would be one session?	
10 Q That's your handwriting right --		10 A You know, I might have went to lunch. I don't	
11 A In the middle.		11 remember.	
12 Q Where it says 8852 underneath?		12 Q But Mr. Hecker gave you this Exhibit 24, and then	
13 A Yes, that's my check number.		13 shortly after that you sat down and started	
14 Q So did Mr. Hecker give you this Exhibit 24 as the		14 writing checks out?	
15 bills you were to pay out of the money coming		15 A You know, I think so, but it might have been an	
16 into your account?		16 hour later. I don't remember.	
17 A Correct.		17 Q Within a day after that?	
18 Q And so when you received this exhibit -- Well,		18 A Well, let me think for a minute. It may not have	
19 the first page of Exhibit 24, did you receive		19 been. I really don't recall. But I remember	
20 that on a different day than the second page or		20 that \$28,000 or \$23,000 check and the \$5,000	
21 did you get them both at the same time?		21 check, when I went to deposit it, you have the	
22 A To the best of my recollection, I think they came		22 deposit slip, it shows that, don't ask me why,	
23 a day or so apart, but I don't remember.		23 they credited \$100 to my account and held the	
24 Q And you understand I'm talking about these two		24 27,000 -- or, I'm sorry, 27,900, whatever it was,	
25 pages?		25 they held because they wanted to make sure the	
	Page 50		Page 52
1 A Oh, those two? No, these I got at the same		1 checks were good. And they had a date, that they	
2 time. I'm sorry.		2 wouldn't be good until June 9th or something like	
3 Q So exhibit --		3 that.	
4 MR. DICKER: Pardon me, Mr. Seaver.		4 And I talked to the people at the bank,	
5 Just so that the record is clear, the documents		5 and finally they got them to say that the checks	
6 you're referring to are the two pages of		6 were good sometime in June. And then I think	
7 Exhibit 24 that are marked Prohofsky 11 and 12,		7 that's -- I'd have to look at the dates on these,	
8 and your testimony is that your best recollection		8 if you have the dates on my checks. I think I	
9 is you received both of these pages at the same		9 had to wait until some of the money was clear.	
10 time?		10 So I don't think county money was clear right	
11 THE WITNESS: Yeah. He was very		11 away. So I don't think, here it is, here's the	
12 astute, because he saw me pick this (indicating)		12 deposit, go write out the checks. I think there	
13 up and he put it together. Thank you for		13 was a brief time in there I had to wait. But,	
14 correcting me.		14 you know, to be truthful with you, I'm foggy	
15 BY MR. SEAVER:		15 on...	
16 Q So back on Exhibit 24, Mr. Hecker gave you those		16 Q Okay. But still on Exhibit 24, you wrote all	
17 pages at the same time?		17 these checks out and put the numbers in next to	
18 A I believe so, yes.		18 the list you had?	
19 Q Okay. And when you received these, what you		19 A Correct.	
20 received was this, it's a list of bills that are		20 Q Okay. And then did you give the checks to Denny?	
21 to be paid from the funds that you were holding,		21 A I think to Sue.	
22 right?		22 Q Sue Miller?	
23 A Yes.		23 A Yeah. You know, I'm fuzzy on this, but I think	
24 Q And then as you wrote -- is it accurate to say		24 Sue put them in envelopes and mailed them.	
25 that as you wrote checks out to pay those bills		25 Q You weren't the one who put them in envelopes?	

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1 right. I wanted to show the balance because I  
 2 had made out that 21,000 some odd dollar check  
 3 for Denny that he said void, which was before the  
 4 bankruptcy. So at that time that \$10,000 was  
 5 really mine.

6 Q Is there any piece of paper anywhere that might  
 7 give any support to that testimony you've just  
 8 given, sir --

9 A Yeah, the statement.

10 Q -- other than this Exhibit 19?

11 A Well, my bank statement itself. The money went  
 12 in there from the Hecker, whatever, organization  
 13 and it was in my account. Now, I don't know if  
 14 I'm stating it correctly, but...

15 Q Did you give all 10,000 of those gift cards to  
 16 Denny Hecker?

17 A No. I told you I didn't.

18 Q So when I get the detail from Wells Fargo Bank  
 19 and I see who used those cards, I'm going to see  
 20 that you used some of them?

21 A Correct.

22 Q Let's look at Exhibit 19 again. The very last  
 23 line of your running balance here says \$14,180.01  
 24 as of 6/30/09, correct?

25 A That's what it says.

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Page 68

1 Q So when you wrote this, at least, that's what you  
 2 believed as of 6/30 you were still holding from  
 3 the money you had received?

4 A No, that isn't what it means.

5 Q What does it mean?

6 A You know, I don't know, but I know it doesn't  
 7 mean that.

8 Q How do you know it doesn't mean that?

9 A Because there wasn't that money left. If you add  
 10 up, which I did -- If you add up all the checks  
 11 that cleared, there couldn't possibly have been  
 12 that kind of money. The checks cleared. You add  
 13 up the input and the output, it doesn't add up to  
 14 that.

15 Q All right. But it's certainly your testimony  
 16 that this \$9,800 that we see, that check going  
 17 out to Christi, that was still Denny Hecker  
 18 money, correct?

19 A That was money that I received from the Denny  
 20 Hecker organizations.

21 Q To pay bills of Denny Hecker?

22 A I believe they were all Denny Hecker's.

23 Q When Denny Hecker told you to do something with  
 24 the money you had received in your account, you  
 25 did it, right?

1 A You know, that's a pretty broad statement.

2 Q But it's true, isn't it?

3 A Not entirely.

4 Q Okay. Well, let's focus on the \$9,800 check.

5 Well, tell me why it's not entirely true.

6 A I don't believe it's entirely true because some  
 7 of the money he told me to pay a bill and we  
 8 argued and I got to \$10,000. I gave some of it  
 9 back to him in credit cards, so that would make  
 10 your statement not 100 percent true.

11 Q Okay. Other than those little differences it's  
 12 true?

13 A I don't know if they're little differences, but I  
 14 think most of it appears -- I'd have to think  
 15 more about it, but I think it appears true.

16 Q Generally speaking?

17 A I would say general, yes.

18 Q Generally speaking, when Denny Hecker told you to  
 19 write a check to so-and-so from the money in your  
 20 account, you did it?

21 A As long as I deemed it was proper.

22 Q And how did you decide what was proper to do with  
 23 that money and what wasn't?

24 A Well, if he would have told me to make a check to  
 25 you, I wouldn't have done it. I would have said

1 why.

2 Q Why is that, sir?

3 A Why would I? I mean, I have to have some  
 4 justification.

5 Q You knew he filed bankruptcy on June 4, didn't  
 6 you?

7 A You know, I think so.

8 Q All right. But yet on June 11 he told you to  
 9 write a blank check for \$9,800 and you just did  
 10 that, right?

11 A Yes.

12 Q But you wouldn't have written one to his federal  
 13 bankruptcy trustee if he told you to do that;  
 14 that's your testimony?

15 A I don't believe that's my testimony. I think the  
 16 words are out of context.

17 Q If he would have told you to write that \$9,800  
 18 check to Randall Seaver, Trustee for Denny  
 19 Hecker, would you have done it?

20 A Probably.

21 Q Tell me again what -- any event -- Let me  
 22 rephrase it.

23 Was there any time that he told you to  
 24 write a check to anyone that you didn't do it?

25 A I don't believe so.

1 Q Okay. So you followed his directions in writing  
2 checks out of that account?  
3 A I deemed it was his money.  
4 Q And he could do with it as he pleased?  
5 A You know, you're telling me certain things that  
6 are legal that I don't understand. In my  
7 opinion, I don't think I did anything wrong.  
8 Q Let me show you exhibit -- Well, so after the  
9 \$9,800 blank check that you wrote him, is it your  
10 testimony all of that money that you had received  
11 had been spent?  
12 A You know, I'd have to go through my figures. Off  
13 the top of my head without checking -- God, I'd  
14 have to go through my figures to check, you know,  
15 I would think so, but I'm not sure.  
16 Q All right. Here's Exhibit Number 26. And  
17 Exhibit Number 26 is a group of documents that  
18 you produced. They start at Prohofsky 480. And  
19 these, again, are check stubs. Do you have that  
20 in front of you, sir?  
21 A The one you just handed me?  
22 Q Yes.  
23 A Yes.  
24 Q All right. And these are all check stubs for  
25 checks that you wrote on June 30 of 2009, aren't

1 they?  
2 A Can I see those two lists that I made out? I  
3 think what had happened, I transposed a date. I  
4 think that should have been 5/30 and I think I  
5 put 6/30. Because if you take a look at the  
6 statements, let's see when they cleared the  
7 bank. Let me look at a number, 8860 out of 87.  
8 Q Let me show you the July statement. Here's  
9 Exhibit 14, your July Wells Fargo statement.  
10 Let's just follow some of those checks through  
11 that have that 6/30 stub date on them. Let's  
12 look for Check Number 8852. That's the first one  
13 on here.  
14 A 8852.  
15 Q Okay. And if you look at July 13 on this second  
16 page of this statement, you'll see Check 8852  
17 clearing on that date. Do you see that?  
18 A No, I don't see that.  
19 Q 7/13, Check 8852.  
20 A Yep.  
21 Q Clears on July 13, right?  
22 A Yep.  
23 Q Let's look at the next one, 885 --  
24 A I agree with what you're saying and I'm trying to  
25 remember. Maybe he gave me more to pay other

1 bills. Are they the same ones with my check  
2 numbers on the slip?  
3 Q Look and see.  
4 A Here is 8852. Where's 8852. That's the same  
5 amount. You know, I have no recollection. I  
6 don't know why. I have no idea.  
7 Q So back at Exhibit Number 26, these are all check  
8 stubs that you wrote to pay Denny Hecker bills  
9 and they're all dated 6/30 of '09, correct?  
10 A It appears that way.  
11 Q Okay. So let's go back -- having looked at that,  
12 let's go back to Exhibit 19, where on 6/30/09 you  
13 have a balance of \$14,180.01. Does it appear to  
14 you that when you wrote this, you thought at that  
15 time, at the end of June, you were still holding  
16 over \$14,000 to pay Denny Hecker bills?  
17 A It appears that way.  
18 Q Okay. Let me show you Exhibit Number 39. This  
19 is a check written on your Wells Fargo account  
20 jointly payable to TCF and Randall Seaver,  
21 correct?  
22 A Uh-huh, yes.  
23 Q What was that for?  
24 A Actually, you know, it was for the rent up at  
25 Crosslake, but I do believe that it was only

1 supposed to be \$2,000 a month, according to my  
2 lease.  
3 Q But, nonetheless, you sent me this check for  
4 \$24,000?  
5 A I didn't send it to you. I think I gave it to --  
6 Q Mr. Skolnick?  
7 A I think so.  
8 Q And you gave it to him to give to me?  
9 A I didn't know if it was going to you or TCF or --  
10 I didn't know where it was going.  
11 Q Here, I'm just going to put in front of you your  
12 PMA account statements for September of 2009,  
13 which is Exhibit 16, and October of 2009, which  
14 is Exhibit Number 17. Now, your check to me and  
15 TCF is dated September 30, correct?  
16 A Uh-huh, yes.  
17 Q Would you just show me on either of these  
18 statements, either September or October, any day  
19 that your bank account had funds sufficient to  
20 cover this check?  
21 A It's not -- There wasn't sufficient funds to  
22 cover it.  
23 Q Why would you write a check like that?  
24 A Because I expected to get 12,000 or half of it  
25 from Dan Albright. And I was going to pick up